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| 09/910,170 | 07/20/2001 | Howard Taitel | 04899-058001 | 1865 |
| 959 | 7590 | 01/27/2006 | EXAMINER | |
| LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109 | | | COBY, FRANTZ | |
| | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,170

Applicant(s)

TAITEL, HOWARD

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-16 and 18-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is in response to Applicant's amendment filed on October 14, 2005 in which claims 1, 8-10, 16, 18, 24, 34, 35, 40 were amended and claim 17 was canceled.

Status of Claims

Claims 1-16 and 18-42 are pending.

Response to Arguments

Applicant's arguments filed on the aforementioned date have been fully considered but they are not persuasive. Therefore, the rejection of pending claims 1-16 and 18-42 under sections 102(e) and 103(a), mailed on July 14, 2005, remains.

The rejection follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugata
U.S. Patent no. 6,901,579.

As per claims 1, 8 and 9, Suguta discloses a computer implemented method and program including processor for identifying portions of model that are critical or non critical to a real time execution by providing an automatic object-oriented programming language program generation apparatus for automatically developing part of a program for improving productivity in developing the program using an object-oriented programming language, an automatic generation method of the program, and a storage medium for storing the method of the program (See Suguta Col. 1, lines 11-17). In particular, Suguta discloses the claimed limitations of "generating code that is capable of real-time execution based on the critical portions of the model" is capable of real-time execution is realized as automatic generation of a copy constructor in an object-oriented programming language program which enables duplication of an object. Conventionally, such a program as shown in FIG. 2C must be made by a user, Since Suguta allows automatic generation of source codes, generation of codes that is capable of real-time execution is realized (See Suguta Col. 2, lines 40-51).

As per claims 2-7, most of the limitations of these claims have been note in the rejection of claims 1,8 and 9 above. They are at least rejected for their dependencies, directly or indirectly, on claims 1, 8 and 9.

As per claims 10-15, most of the limitations of these claims have been note in the rejection of claims 1,8 and 9 above especially, the aspect of "generating software code". In addition, Suguta discloses the claimed feature of "a code generator" as a program

generation unit (See Suguta Figure 3, component 5; Col. 5, lines 9-67), A GUI; post processing unit sections; linking codes through inter-process communication links; applying software to generate codes and receiving output from the code via inter process link (See Suguta Figure 3; Col. 6, lines 30-38)

As per claims 16-23, most of the limitations of these claims have been noted in the rejection of claims 1, 8, 9 and 10-15 above especially, the aspect of "automatic generation of software code". In addition, Suguta discloses "a system comprising a graphical user interface (GUI) adapted to receive user inputs to specify components of a model, the components containing a first subset of sections designated as post-processing elements of a model and second subset of sections designated as core elements of the model" (See Suguta Figure 4; Col. 6, lines 30-56); "essential computer components (See Suguta Figure 4 and corresponding text); high level computer programming as C++ including compiler (See Suguta Col. 6, line 56-Col. 7, line 31).

As per claims 24-29, all the limitations of these claims have been noted in the rejection of claims 1-23 above. They are therefore rejected as set forth above.

As per claims 30-33, Suguta discloses "a processor and a memory configured to specify block diagram model" (See Suguta Title, Abstract), the block diagram model including data having internal pre-defined data storage classes and external custom data storage classes (See Suguta Figures 3-7 and corresponding text); and Suguta

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discloses the claimed limitations of "generate software source code for the block diagram model with a code generator using the internal predefined data storage classes and the external custom data storage classes" by providing methodology for generation of source code from classes (See Suguta Col. 2, line 40-Col. 3, line 19).

As per claims 31-33, most of the limitations of these claims have been noted in the rejection of claim 30 above. In addition, Suguta provides computer system that incorporates processor and memory that is usable as a personal computer, single computer and can as well be connected into a computer network (See Suguta Figure 4 and corresponding text).

As per claims 34-42, all the limitations of these claims have been noted in the rejection of claims 1-33. They are therefore rejected as set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suguta U.S. Patent no. 6,901,579.

Claim 16 recite "a system comprising a graphical interface (GUI) adapted to receive user inputs to specify components of a model". So far the claim is simply providing a GUI, which is a means for receiving user inputs. Although the claim states that "the components containing a first subset and second subset of sections, these differences are only found in the nonfunctional descriptive material and do not alter how the GUI is adapted to receive user inputs to specify components of a model. In other words, the descriptive material does reconfigure the GUI to receive user inputs. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, See *In re Gullack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 1031 (Fed. Cir. 1994).

Remarks

The Applicant argued, "Suguta does not disclose the step of identifying portions of a model as being critical to a real-time execution of the model, and other portions as being non-critical to a real-time execution of the model, and the step of generating code that is capable of real-time execution based on the critical portions of the model, as recited in claims 1, 8 and 9". The Examiner, on the other hand, disagrees with the preceding argument because Suguta discloses these limitations at Column 1, lines 11-17 and Column 2, lines 40-51. In particular, Suguta discloses the claimed limitations of "generating code that is capable of real-time execution based on the critical portions of the model" is capable of real-time execution is realized as automatic generation of a copy constructor in an object-oriented programming language program which enables

duplication of an object. Conventionally, such a program as shown in FIG. 2C must be made by a user. Since Suguta allows automatic generation of source codes, generation of codes that is capable of real-time execution is realized (See Suguta Col. 2, lines 40-51).

The Applicant also argued, Suguta does not disclose the step of specifying a model that includes "a first subset of sections designated post processing unit sections, and a second subset of sections designated as core processing unit sections, and the step of generating code for the model using the second subset of sections". The Examiner respectfully submits that Suguta discloses the aspect of generating software code". In addition, Suguta discloses the claimed feature of "a code generator" as a program generation unit (See Suguta Figure 3, component 5., Col. 5, lines 9-67), A GUI; post processing unit sections', linking codes through inter-process communication links; applying software to generate codes and receiving output from the code via inter process link (See Suguta Figure 3., Col. 6, lines 30-38)

In light of the above argument, the Examiner respectfully submits that Independent claims 1, 8-9, 10 and 26 are unpatentable over Suguta U.S. Patent no. 6,901,579. Also, claims 1, 8-9, 10 and 26 are not self-sufficient since the applicant has to rely on the features of dependent claims in order to support the claimed features of the aforementioned independent claims.

The Applicant argued, Suguta does not disclose "an automatic code generator generating code capable of real-time execution based on the second subset of sections". The Examiner respectfully disagrees with the preceding argument because Suguta achieved the aforementioned claimed limitations as automatic generation of a copy constructor in an object-oriented programming language program, which enables duplication of an object. Conventionally, such a program as shown in FIG. 2C must be made by a user, Since Suguta allows automatic generation of source codes, generation of codes that is capable of real-time execution as well as generation of code for block diagram models and any number of subset of sections is realized (See Suguta Col. 2, lines 40-51).

The Applicant further argued, Suguta does not disclose the step of receiving user input through a graphical user interface (GUI) specifying a block diagram model, and the step of generating software source code for the block diagram model with a code generator using the second subset. However, it is clear that Suguta discloses aspects of "automatic generation of software code" as explained above. In addition, Suguta discloses "a system comprising a graphical user interface (GUI) adapted to receive user inputs to specify components of a model, the components containing a first subset of sections designated as post- processing elements of a model and second subset of sections designated as core elements of the model" (See Suguta Figure 4*, Col. 6, lines 30-56)*, "essential computer components (See Suguta Figure 4 and corresponding text;

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high level computer programming as C++ including a compiler (See Suguta Col. 6, line 56-Col. 7, line 31).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272 4017. The examiner can normally be reached on Monday-Saturday 3:00PM-10:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


FRANTZ COBY
PRIMARY EXAMINER

January 23, 2006